

**Washington County Land Use Authority Work Meeting**  
**January 27, 2009**

The Washington County Land Use Authority Work Meeting was held on Tuesday, January 27, 2009, in the Commission Chambers of the Washington County Administration Building. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present, Debra Christopher, Joann Balen, Julie Cropper, Dave Everett, Kim Ford, Doug Wilson, and Rick Jones. Also present were County Commissioner Denny Drake, Planner Deon Goheen, Deputy Attorney Rachelle Ehlert, and County Administrator John Willie.

Excused:

Audience attendance: Kent McComb, Sharon McComb, Stephen Burningham, Rick Heflebower, Keena Tanner, Steve Flannery, Bonnie Pendleton, Jeanine Holt, and Dennis Iverson

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

**Item #1. DISCUSSION ITEM.** Review Land Use Ordinance amendment within the Agricultural (A-20, 10, and 5 acres) Zone by eradicating and restricting Oleanders from being planted. County initiated.

The planner reminded the commissioners that legal counsel has previously suggested eradicating Oleanders by Ordinance. Attorney Patterson and Ehlert have provided a copy of St. George City Code, which has been modified to fit County Land Use Ordinance, although, the penalty still needs to be changed reflecting County Code 10-1-21: A & B:, which is a class C misdemeanor. Originally this was being proposed for Agricultural zones, but the planner suggested considering other zones (OST, RA & RE) as well. Landscapers, nursery owners, weed board members, USU Extension office and others have been invited to attend this work meeting to give their opinions. The planner added that the State Legislature or Agricultural Department may want to consider putting this on their noxious weed list.

Rick Hefelbower, USU Extension Office, horticulture specialist said that in the nine (9) years he has worked in that office, he has been aware of several livestock and horse poisonings because of Oleander. Although there are many others common to local landscaping that are also toxic, Oleander is one of the worst. Mr. Hefelbower said that the biggest problem is human caused, by those who put clippings in irrigation ditches, horse corrals, or along fenced areas. More education is needed, including leaflets, or flyers to help people understand that Oleander and other plants that are heavily planted in urban areas are toxic. Oleander plants grow large, and when they are trimmed, the clippings are not always disposed of properly. Mr. Hefelbower said that since Oleanders are widely planted, it could be a hardship for some people if they were required to eradicate them. Also, enforcement is a big issue, and there is the question of who would do it.

Keena Tanner, Star Nursery, brought list of poisonous plants, and their relative degree of toxicity to share with the commissioners. Ms. Tanner said that she would be willing to help with education, including the verbiage on signs at Star Nursery. Seminars were another suggestion

given to educate the public. Ms. Tanner explained that when there is a mass planting of any type of plant, it is called a monoculture. Oleanders are one of the more common plants used in this area because they are heat tolerant, sturdy and don't require much water.

Mr. Hefelbower added that the dry leaves can still be poisonous. There was at least one instance where an Oleander plant had fallen into a ditch, killing a cow that drank from the ditch.

Steve Flannery, Plant World Nursery, said that there are so many plants that have stems, leaves, or berries that are also poisonous it's difficult to know where to stop at targeting them. Mr. Flannery agreed that education is important, and that one on one service is best in order to get good information to the public. Mesquite and cottonwood trees have been in Washington County and were originally safe, but toxic varieties of plants and trees have been introduced from other areas. Many Oleanders were planted twenty-five (25) years ago, because there was not much variety, but now there are more choices. Most Oleander plants grow to twenty-five (25) feet, which is too tall for most residential landscaping, thereby necessitating more frequent trimming. There is one variety of Oleanders that only grows to five (5) feet, which would be more popular with the majority of homeowners. Mr. Flannery believes that requiring elderly longtime residents to eradicate Oleander plants on their property would create an undue hardship.

Dennis Iverson, Washington County Farm Bureau President, said that this subject keeps coming up because oleanders keep killing animals. The official Farm Bureau policy supports nurseries to label Oleanders as toxic and explain how to dispose of them. Mr. Iverson agreed with the other comments that education is vital, including toxicity and disposal procedures, and felt that making a specific Ordinance would be the first step in education. Labeling Oleander as toxic to animals and humans would be effective, if the nurseries would use them.

There was a brief discussion regarding the problem with Oleander clippings being dumped around horses and livestock. There is an existing Ordinance against dumping that is largely ignored.

Mr. Flannery said that there is a disease called Oleander Leaf Scorch in areas of Arizona and California that has killed large numbers of Oleander plants.

Jeanine Holt, Weed Board, thanked the Planning Commission Staff for the invitation to discuss this problem. It is important to start on smaller scale and not try to enforce too stringently at first because it is not in every community, only in lower areas. Ms. Holt was concerned about Oleander plants being around schools, trails, and parks, or anywhere children could be playing.

Steve Burningham, Utah Dept. of Agriculture Weed Control Specialist, has been involved for more than thirty-five (35) years. In 1971 a noxious weed law was passed, and there have been some amendments over the years. There is a rule or regulation that implements the state law, which lists twenty-seven (27) noxious weeds that were declared noxious by the Commissioner of Agriculture. Even though this is a state law, the counties are responsible for doing the enforcement, through County Commissioners, and the County Weed Board. Dale Gubler is the Washington County Weed Supervisor. Under this weed law, the County is responsible for the development and implementation of a countywide weed program. Also under the state weed law,

the County Commission has authority to declare a noxious weed as a County noxious weed, if there is a serious problem. If a plant is declared a noxious weed, it cannot be sold and seeds cannot be sold for any purpose. Homeowners would be required to control and eliminate the noxious weed on their property. If they are properly notified and fail to remove the noxious weeds, the county has authority to go onto private property and clean them up and charge the homeowner. If the charges are not paid within ninety (90) days, an assessment will be made on the homeowner's taxes.

Mr. Burningham explained that ten to twenty (10-20) Oleander leaves can cause an adverse reaction in an adult, but one (1) leaf is enough to be fatal for an infant or child. In 2002, there were 847 known human poisonings in the United States related to Oleander. In animals, around 0.5 milligrams per kilogram of body weight is lethal.

Mr. Burningham stated that the Washington County local representative is Jeremy Peterson, who monitors local nurseries and makes sure that plants are labeled correctly, viable, and in proper containers.

Mr. Burningham suggested that education could be effective during a municipality annual clean up day, where there are dumpsters located for residents. Correct disposal could be taught and enforced during this time.

Kent McComb, Weed Board, expressed concern that this problem is not going away, because Oleander clippings are being dumped in areas where livestock feed, and commented that these animals are very expensive to replace.

Ms. Tanner made a final comment and emphasized that the people are the problem, not the Oleander plant, and educating the people is very important.

Bonnie Pendleton said that people are dumping in the desert, and education and policing is the best ways to deal with the problem. Ms. Pendleton suggested a newspaper article stating that dumping is illegal, and asking people to watch and call in a license plate number in an attempt to catch the offenders and stop them.

Chairman Stucki asked for comments from Commissioners:

Commissioner Ford said that we already have legislation; we need to accommodate it within the County Code. An educational program is needed, and we don't need to rediscover the wheel, just incorporate it.

Commissioner Cropper said ranchers have strong concerns, this problem creates hazards, and financial problems for people, as well as many health issues. Although the plant is beautiful, it creates a health, safety and welfare issue within the County.

Commissioner Everett said that he was intrigued with the concept of dealing with schools, and those who have children, since children are at more risk. Also, agrees to work with the nursery personnel and their willingness to label plants for education. Commissioner Everett said he

doesn't like to see more laws on the books, and creating additional laws should be a last resort, not a first, rather make a cooperative effort with nurseries.

Commissioner Balen - need efforts with all entities present who are willing, and eager to help, to brainstorm ways to get education out, many are practically free. Spring time is perfect time for working with the Farm Bureau, the Weed Board, nurseries, Washington County, radio stations, newspapers and other entities.

Commissioner Christopherson - education is lacking, and suggested putting information in utility bills to get to a maximum number of homes, and use education first before completely taking away

Commissioner Wilson - difficult to find hard facts on internet, but it's most important to know local information. He is very opposed to illegal dumping, and suggested posting signs at places where dumping is occurring.

Commissioner Jones - dispose like nurseries indicated.

Chairman Stucki - every speaker agrees education is first step, including flyers to schools, articles in the Spectrum newspaper, radio spots, utility bills, property tax notices, and education at the nurseries by wording on posted signs, and education to homeowners or landscaping companies who would be trimming the plants. Enforcement of illegal dumping is best done by the Sheriff's Department. Education is vital to learn which plants are illegal and/or toxic.

Ms. Ehlert said a recommendation from the Planning Commission to the County Commission is necessary, and that she could prepare a resolution that will create public awareness. There is already an ordinance on the books prohibiting dumping, but there could be a need to make sure it's strong enough.

After a brief discussion, Ms. Ehlert offered to draft a resolution for the next Planning Commission Meeting that will focus more on illegal dumping, rather than eradication of Oleander. The neighborhood cleanup, with education regarding Oleander disposal could also be a part of that resolution.

**Item #2. DISCUSSION ITEM.** Review and make recommendations on Land Use Ordinance amendment regarding Section 10-9-1: Planned Development (PD) zone. County initiated.

The planner reminded the commissioners that they have had this document to review for more than a month. Two (2) new commissioners received a copy for review, and the planner expressed hope that this can be moved along for advertising for a public hearing. Mr. Willie has drafted a new Planned Development Chapter for the Land Use Ordinance, which was recently adopted by the City of Santa Clara, and where our code is somewhat outdated (adopted in 1984), he felt the commission would want to review this new version for adoption. All commissioners in attendance had a copy of the most recent proposed Planned Development (PD) zone ordinance.

Commissioner Balen left at 3:22 p.m.

Chairman Stucki reviewed each page of the document, asking if there were any questions and concerns.

Page 1, 10-9-1.A:

The word “conditionals” should be changed to read “conditions.”

Page 2, 10-9-1.k:

*Facilitate more affordable and efficient housing by providing possibilities for cost savings in infrastructure, installation costs, and energy costs through clustering of dwellings, density transfer, and other means.*

There was a discussion about deleting the words “cost savings in” to prevent developers from reducing their costs by skimping on requirements.

Page 3, 10-9-4.F:

*More detailed descriptions of these components can be found in section 10-9-10 (applicable procedures and requirements) of this chapter. The table at the end of this chapter contains standards for planned developments. Setback and roadway width standards may be modified to allow creative developments to occur, provided there is a recommendation from the Land Use Authority, and approval from the County Commission at the project plan approval state approving the request for such modifications.*

There was a discussion about deleting “Setback and roadway width standards may be modified to allow creative developments to occur” because of concern about emergency vehicles being able to access properties if the roads are inadequate. It was noted that there are typically walkable areas in planned development zones that are not found in any other zone, and that the roads are a big part of this particular zone. If there are not areas for residents to walk, it completely changes the feel of the zone, and could eliminate the need for PD zones.

John Willie, County Administrator stated that he is a supporter of private streets, and stated that the way streets are built is more important than their width. Private streets are not required to be built to County standards. Mr. Willie said that roads should be able to be modified in PD zones, but not in single family subdivisions.

Todd Edwards, Public Works, gave suggestions to encourage walkability, by having moundable curbs, large sidewalks, dedicated parking, and by widening intersections with a large radius to allow emergency vehicles and garbage trucks, etc. to get around the corners.

Page 3, 10-9-4.F:

The next paragraph, *“Planned development districts are most appropriately located in developing areas where innovative site planning will have a positive impact of other adjacent*

*developments, and accomplish the objectives of the County General Plan.” is duplicated at the bottom of page 2, so it was suggested that this paragraph be deleted.*

Page 5, 10-9-6.9.c:

*Utilize a commercial storefront configuration.*

There was a request to add a definition for this item.

Page 5, 10-9-6.9.d:

*Provide sidewalks at such widths as may be approved by the Land Use Authority, and will connect the pedestrian system within the project, and also to sidewalks in existing development areas outside of the project area as may be applicable.*

There was a brief discussion whether “at such widths as may be approved” should be defined as a minimum of four (4) feet.

Page 6, 10-9-8.A:

*Location of PDO districts: PDO planned development office districts are most suitably located on an arterial, or non residential collector street between uses of higher and lower intensity, or in areas where other office uses are located. PDO districts can serve as an effective transitional area between a more intensive use such as commercial and residential uses. PDO districts should not be located at major intersections, but are more suitably sited in the mid block or interior areas.*

There was concern that what is allowed on the corners is not clear.

Page 13, 10-9-9.F.5:

*A minimum of twenty-five (25) percent of the project open space shall be landscaped utilizing Xeriscaping...*

A suggestion was given to add the words, “or as otherwise approved by the Land Use Authority.”

Page 14, 10-9-9.G.4.c:

*Open decks.*

Either a definition is needed, or add the words, “or any other amenities as otherwise approved by the Land Use Authority.”

Page 14, 10-9-9.G.5:

*Finishing materials: Nonresidential PD development shall utilize masonry exterior finishing materials. Acceptable masonry finishing materials include brick, stucco, natural, or cultured*

*stone, decorative concrete, terrazzo, tile, or other materials approved by the Land Use Authority. Unfinished concrete, cinder block, metal panels, plywood, masonite, or other metals or vinyl siding are not acceptable finishes.*

There was a discussion whether this item should be controlled by the Homeowners Association. It was suggested that the words, “or as otherwise approved by the Land Use Authority” could be added.

10-9-10.C:

*...indicating the layout of the development and appropriate...*

This portion was written twice, so the duplicate phrase will be deleted.

**Item #3. DISCUSSION ITEM.** Review and make recommendations on Land Use Ordinance adoption of Section 10-25-1: Home Occupation. County initiated.

Due to time constraints, it was determined that this item will be discussed at the next meeting.

**Item #4. STAFF DECISIONS.** Review of decisions from the Land Use Authority Staff Meeting held on January 20, 2009. County initiated.

The staff meeting convened at 9:00 a.m. Staff members present: Deon Goheen, Planner; Kurt Gardner, Building Official; Rachelle Ehlert, Deputy Civil Attorney; Tina Esplin, Washington County Water Conservancy District; Darwin Hall, Ash Creek Special Service District; Randy Taylor, Department of Environmental Quality; and Laurence Parker, Southwest Utah Public Health Department;

Excused: Ron Whitehead, Public Works Director

**CONDITIONAL USE PERMIT EXTENSION:**

**A. Request permission for a 4<sup>th</sup> dwelling for a family member within the A-10 zone, generally located southwesterly of the Santa Clara River of Veyo Resort Road, in the Veyo area. Joann Balen, applicant**

This is an automatic annual review and these types of uses are conditionally approved for a single family dwelling for a family member. The applicant had previously met the requirements for the use permit by submitting a site plan, septic permit from the Southwest Utah Public Health Department (SWPHD) and a stock certificate from the Veyo Culinary Water Company allowing for a water connection. The property is accessed from Hwy 18 onto Veyo Resort Road and the plan meets all 25' setback requirements. The parcel is within the A-10 zone and contains 100 acres. Building Official Kurt Gardner made the final inspection on July 3, 2008 granting final occupancy and the construction meets the requirements of the International Building Code. **Staff granted approval of the Conditional Use based on permanent status.**

**Item #5. COUNTY COMMISSION ACTION REVIEW.** Review of action taken by the County Commission on Planning Items. County initiated.

Action taken on Planning Items by the Washington County Commission on January 20, 2009, beginning at 4:00 p.m.: (a) Conditional use extension to install the UNEV petroleum pipeline using the IPP/Kern River corridor for a fuel transmission line running through Washington County northeasterly to southwesterly... Ann Jones, applicant/agent; (b) Conditional use extension for a staging area for pipe storage yard to be used on the UNEV Pipeline, containing 13.300 acres, the Fenton Bowler property in Veyo... Ann Jones, agent/UNEV Pipeline LLC, applicant; and (c) Conditional use extension to operate a gravel crusher within the OST-20 Zone, Section 16, T42S, R14W, SLB&M, generally located 1/4 mile east of the Washington County Landfill... Dee Atkins, landowner/Western Rock Products, applicant.

The planner reported that the items were approved, based on recommendation by the Planning Commission.

**Item #6. COMMISSION & STAFF REPORTS.** General reporting on various topics - County initiated.

There being no further business at 4:20 p.m., Chairman Stucki adjourned the meeting.

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Donna Rasmussen, Planning Secretary